

MEMORANDUM

Planning Department



DATE: October 11, 2018

TO: Mayor and City Council

THROUGH: Julie Edmonds-Mares, City Manager

FROM: Ned Thomas, Planning Services Director

SUBJECT: Accessory Dwelling Unit Ordinance Update

This memorandum provides a status update on proposed amendments to Section XI-10-13.08 ("Second Family Unit") to the City of Milpitas Zoning Code.

On September 27, 2016, Governor Brown signed Senate Bill (SB) 1069 and Assembly Bill (AB) 2299 into law, modifying a local jurisdiction's ability to regulate Accessory Dwelling Units (ADUs). Governor Brown also signed AB 2406 into law, which authorizes local agencies to provide, by ordinance, for the creation of "junior accessory dwelling units" (JADUs) in single-family residential zones. A JADU is a unit that is no more than 500 square feet in size, contained entirely within an existing single-family structure, and either has separate sanitation facilities or shared sanitation facilities with the main dwelling. The new laws became effective on January 1, 2017.

On October 8, 2017, Governor Brown signed two additional bills related to ADUs – SB 229 and AB 494 – to further clarify and improve various provisions of the law to encourage the construction of ADUs, including allowing ADUs to be built concurrently with a single-family home, allowing ADUs to be built in all zoning districts that allow single-family uses, modifying fees from utilities, and reducing parking requirements. Both SB 229 and AB 494 became effective January 1, 2018.

In accordance with those bills, State law renders any existing local ordinance that fails to fully meet the requirements of State law null and void, unless and until the local agency adopts a compliant ordinance. Given that the most recent amendments to the ADU regulations in the City of Milpitas Zoning Code occurred in 2008, the City must amend the ADU regulations in the Zoning Code for consistency with State law if it wishes to continue enforcing certain local zoning regulations.

Proposed Amendments: Some elements of the new law are mandatory and thus, the City has no authority to adopt different regulations for those elements. In response to the state legislation, staff will propose changes to bring the City's Municipal Code into compliance with the new state ADU legislation.

Other elements of the law provide some flexibility for local jurisdictions to tailor the requirements to their communities. Local jurisdictions retain discretion over certain provisions and development standards, which include the following:

- Requiring Owner-occupancy
- Increasing the quantity of ADUs per single family lot beyond one ADU
- Eliminating the limit on the number of bedrooms
- Requiring deed restrictions
- Any other development standards or policy considerations that the Council would like staff to explore

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Public Outreach: Prior to the introduction of the ordinance to Planning Commission and City Council, staff will undertake a series of outreach sessions to obtain feedback on the proposed ordinance changes from the public. Additionally, an online survey will be prepared as an alternative method to receive feedback and gather data. Other means to receive feedback from the public will include email to the City as well as the City's Facebook page and Nextdoor page. The feedback obtained from the outreach sessions, online survey, email, and websites such as Facebook and NextDoor, in conjunction with best practices compiled by the Cities Association of Santa Clara County, will be considered to develop an ADU ordinance for future consideration by the Planning Commission and City Council. A tentative public outreach schedule is incorporated as part of the project timeline as shown below.

Project Timeline: The tentative schedule for the ordinance amendment is shown in the table below:

DAY OF THE WEEK	DATE	ACTION
Tuesday	10/30/2018	Public Outreach Session #1
Tuesday	10/30/2018	Launch Online Survey
Thursday	11/15/2018	Public Outreach Session #2
Thursday	12/13/2018	Public Outreach Session #3
Tuesday	12/18/2018	Project Update to City Council
Wednesday	1/9/2019	Planning Commission Recommendation of Ordinance
Tuesday	2/5/2019	First reading of Ordinance by City Council
Tuesday	2/19/2019	Second reading of Ordinance by City Council
Thursday	3/21/2019	Ordinance effective date